Convention on the Rights of the Child

Distr.: General
5 March 2018

Original: English

Committee on the Rights of the Child

Concluding observations on the combined fifth and sixth periodic reports of Spain*

I. Introduction

1. The Committee considered the combined fifth and sixth periodic reports of Spain (CRC/C/ESP/5-6) at its 2263rd and 2264th meetings (see CRC/C/SR.2263 and 2264), held on 22 January 2018, and adopted the present concluding observations at its 2282nd meeting, held on 2 February 2018.

2. The Committee welcomes the submission of the combined fifth and sixth periodic reports of the State party and the written replies to the list of issues (CRC/C/ESP/Q/5-6/Add.1), which allowed for a better understanding of the situation of children's rights in the State party.[1] The Committee expresses appreciation for the constructive dialogue held with the high-level and multisectoral delegation of the State party.

II. Follow-up measures taken and progress achieved by the State party

3. The Committee welcomes the progress achieved by the State party in various areas, and commends the ratification of the Optional Protocol to the Convention on the Rights of the Child on a communications procedure in 2013 and the adoption of Organic Act No. 8/2015 and Act No. 26/2015, modifying the child and adolescent protection system. It also welcomes the fact that the obligation to evaluate the impact on children and adolescents of all draft legislation has been included in Act No. 26/2015. The Committee further welcomes the creation of the childhood observatories commission to promote collaboration. It notes with appreciation the State party's commitment to the 2030 Agenda for Sustainable Development and its voluntary adhesion to the high-level political forum on sustainable development for review in 2018.

III. Main areas of concern and recommendations

4. The Committee reminds the State party of the indivisibility and interdependence of all the rights enshrined in the Convention and emphasizes the importance of all the recommendations contained in the present concluding observations. The Committee would like to draw the State party's attention to the recommendations concerning the following areas, in respect of which urgent measures must be taken: allocation of resources (para. 9),

* Adopted by the Committee at its seventy-seventh session (14 January–2 February 2018).

[1] The term "children" encompasses anyone under the age of 18, including adolescents. In Spanish, "children" should be rendered as "niños, niñas y adolescentes".

non-discrimination (para. 15), children deprived of a family environment (para. 28), standard of living (para. 38), education (para. 40) and asylum-seeking and refugee children and unaccompanied foreign children (paras. 43 and 45).

A. General measures of implementation (arts. 4, 42 and 44 (6))

Legislation

5. **The Committee reiterates its previous recommendation that the State party ensure that legislation and administrative regulations in all autonomous communities conform fully to the principles and provisions of the Convention and its Optional Protocols (see CRC/C/ESP/CO/3-4, para. 10). It also recommends that the State party ensure the alignment of regional legislation with the national legal frameworks related to children's rights, ensuring their homogeneous implementation and adequate and sufficient human, technical and financial resources.**

Comprehensive policy and strategy

6. **Noting the final evaluation of the Second National Strategic Plan for Children and Adolescents (2013–2016), the Committee recommends that the State party:**

(a) **Expedite the development of a comprehensive policy and a harmonized strategy for the full implementation of the Convention;**

(b) **Ensure that the policy and strategy are child rights-based, become an integral component of national and regional development planning and encompass the different regional contexts;**

(c) **Include specific time-bound and measurable goals and targets in the harmonized strategy, in order to monitor progress in the enjoyment of all rights by all children, and link the harmonized strategy to national, regional and municipal strategies and budgets to ensure the appropriate allocation of financial, human and technical resources for its implementation.**

Coordination

7. **While noting the role of the three existing mechanisms for the promotion of coordination in the implementation of sectoral policies at the interministerial, autonomous community and technical working levels, the Committee recommends that the State party ensure that the necessary human, technical and financial resources are allocated for their effective operation. It reiterates its recommendation that the State party continue strengthening its coordination systems within the central administration and between the autonomous communities to implement policies for the promotion and protection of the rights of the child (see CRC/C/ESP/CO/3-4, para. 12).**

Allocation of resources

8. The Committee is seriously concerned that the level of investment in children by the State party has not been high enough to offset the negative impact of the severe economic and social crisis that began in 2008 and that has led to increased poverty and social inequality. It is concerned about:

(a) The negative impact of cuts in public investment on the implementation of the Convention, particularly for children in disadvantaged or marginalized situations, including children from low-income families and Roma children, mainly in the areas of education, health, housing and social protection;

(b) The absence of consistent budgetary analysis at the national level and in the various regions or autonomous communities for the correct identification, tracking and protection of resources for the implementation of children's rights;

(c) The fact that Act No. 26/2015 explicitly stipulates that the measures included in the Act cannot entail an increase in resources.

9. **With reference to its general comment No. 19 (2016) on public budgeting for the realization of children's rights, the Committee urges the State party to take measures to promote, in all autonomous communities, a comprehensive assessment of the budget needs of children with a view to redistributing the resources for the implementation of children's rights, particularly regarding increased investment in education and the provision of public services. It also recommends that the State party:**

(a) **Adopt a child-rights based approach when drawing up public budgets, specifying clear allocations to children, including specific indicators and a tracking system to monitor and evaluate the adequacy, efficacy and equitability of the distribution of resources allocated for implementation of the Convention;**

(b) **Improve transparency regarding the use of resources assigned to children, encouraging public dialogue, including with children, and the setting up of proper accountability mechanisms for regional and local authorities;**

(c) **Define budgetary lines for children in disadvantaged or marginalized situations that may require affirmative social measures and make sure that those budgetary lines are protected even in situations of economic crisis, natural disasters or other emergencies;**

(d) **Carry out impact assessments of legal and policy measures that affect children's rights, as provided for by Act No. 26/2015.**

Data collection

10. **With reference to its general comment No. 5 (2003) on general measures of implementation of the Convention, the Committee recommends that the State party:**

(a) **Expand the capacity for collecting disaggregated data on children in all areas of the Convention at different territorial levels, especially on children in situations of vulnerability;**

(b) **Ensure that the data and indicators are shared among the ministries concerned and used for the formulation, monitoring and evaluation of policies, programmes and projects for the effective implementation of the Convention;**

(c) **Take into account the conceptual and methodological framework set out in the report of the Office of the United Nations High Commissioner for Human Rights entitled *Human Rights Indicators: A Guide to Measurement and Implementation*.**

Independent monitoring

11. **Noting the closing of the office of the Ombudsman for Children in the Autonomous Community of Madrid as a part of the optimization of public resources, the Committee recommends that the State party take the measures necessary to protect and reinforce the independent monitoring of children's rights and to reopen the office of the Ombudsman for Children in Madrid, and strengthen the capacity of the national office of the Ombudsman to receive, investigate and address complaints by children in a child-sensitive manner, particularly children in those autonomous communities where no office of the Ombudsman exists.**

Children's rights and the business sector

12. **The Committee welcomes the approval of a national action plan on business and human rights in the State party. With reference to its general comment No. 16 (2013) on State obligations regarding the impact of the business sector on children's rights and the Guiding Principles on Business and Human Rights, endorsed by the Human Rights Council in 2011, the Committee recommends that the State party:**

(a) **Establish and implement regulations to ensure that the business sector, including in the context of public procurement, fulfils the rights of the child;**

(b) Integrate an explicit focus on children's rights, including the requirement for businesses to undertake child rights due diligence in the implementation of their activities;

(c) Promote the adoption of human rights parameters for the foreign and domestic operations of Spanish corporations and other businesses subject to the jurisdiction of the State party;

(d) Implement codes of conduct and other self-regulatory measures for the protection of children against sexual exploitation in the travel and tourism industry.

B. Definition of the child (art. 1)

13. **While welcoming the fact that the minimum age of marriage in exceptional cases was raised from 14 to 16 years, the Committee encourages the State party to continue its efforts in that regard and recommends that it remove the exceptions to the minimum age of marriage of 18 years.**

C. General principles (arts. 2, 3, 6 and 12)

Non-discrimination

14. The Committee is seriously concerned about persisting de facto discrimination against children on the grounds of disability, national origin and socioeconomic status. It further expresses its concern at the persistence, despite efforts undertaken by the State party, of racial discrimination against and stigmatization of Roma children and children with migrant backgrounds.

15. **The Committee urges the State party to strengthen measures to prevent and combat discrimination against children in all sectors of society and ensure the full implementation of relevant existing laws prohibiting discrimination. It also recommends that the State party strengthen public education campaigns to combat stigmatization and discrimination against, particularly, children from ethnic minorities, including Roma children, children with foreign backgrounds, asylum-seeking and refugee children and children with disabilities.**

Best interests of the child

16. **While welcoming the inclusion of the best interests of the child in Organic Act No. 8/2015 and Act No. 26/2015, the Committee expresses its concern at the uneven implementation of this right in the autonomous communities. With reference to its general comment No. 14 (2013) on the right of the child to have his or her best interests taken as a primary consideration, the Committee recommends that the State party:**

(a) Strengthen its efforts to ensure that the child's right to have his or her best interests taken as a primary consideration is appropriately integrated and consistently interpreted and applied in all legislative, administrative and judicial proceedings and decisions and in all relevant policies, programmes and projects that have an impact on children;

(b) Develop uniform procedures and criteria to provide guidance to all relevant persons in authority for determining the best interests of the child in every area and for giving them due weight as a primary consideration;

(c) Train professionals working with and for children on how to assess the best interests of the child.

Respect for the views of the child

17. **With reference to its general comment No. 12 (2009) on the right of the child to be heard, the Committee reiterates its previous concluding observations (see**

CRC/C/ESP/CO/3-4, para. 30) and recommends that the State party increase its efforts to promote due respect for children's views, at any age, in the family, school, society at large and all relevant judicial and administrative proceedings concerning them. The Committee particularly recommends that the State party:

(a) Harmonize the relevant laws, particularly the Civil Code and the Code of Civil Procedure, with the Convention, to ensure the respect, in practice, of the right of children aged under 12 years to be heard;

(b) Develop skills and undertake training programmes among professionals from different areas who work for and with children, including family judges and prosecutors, on children's rights and the implementation of the right of the child to be heard, as a right, rather than as an obligation;

(c) Ensure the effective and systematic implementation of the right of the child to express his or her views in relevant judicial or administrative proceedings;

(d) Conduct research to identify the issues of most importance to children, the extent to which their voices are heard concerning family decisions affecting their lives and the channels through which they currently and potentially have the most influence on local decision-making processes at the national and local levels;

(e) Conduct programmes and awareness-raising activities to promote the meaningful and empowered participation of all children, at any age, within the family, the community and schools, paying particular attention to girls and children in disadvantaged or marginalized situations;

(f) Strengthen student councils in schools and children's councils at all levels to ensure that children's views are heard and facilitate their meaningful engagement with legislative and administrative processes on issues that affect them.

D. Civil rights and freedoms (arts. 7, 8 and 13–17)

Nationality

18. The Committee recommends that the State party consider ratifying the European Convention on Nationality and the Council of Europe Convention on the avoidance of statelessness in relation to State succession.

Right to identity

19. The Committee recommends that the State party ensure that children born through international surrogacy have access to information about their origins.

Access to appropriate information

20. The Committee recommends that the State party establish the audiovisual media State council and allocate resources for its functioning as the regulator of the suitability of television content for children. It also recommends that the State party develop initiatives to regulate access to and use of the Internet and digital media and update school curricula concerning the protection of children in this regard.

E. Violence against children (arts. 19, 24 (3), 28 (2), 34, 37 (a) and 39)

Corporal punishment

21. While noting with appreciation that corporal punishment is prohibited in all settings, the Committee notes with concern that corporal punishment, particularly in the home, persists. Recalling its previous recommendation (see CRC/C/ESP/CO/3-4, para. 35), the Committee draws the State party's attention to its general comment No. 8 (2006) on the right of the child to protection from corporal punishment and other cruel or degrading forms of punishment and recommends that the State party:

(a) Continue to raise awareness about the unlawfulness of corporal punishment and its negative effects on child development and to promote positive, non-violent and participatory forms of child-rearing and discipline;

(b) Adequately monitor and enforce the prohibition of corporal punishment.

Abuse and neglect

22. **The Committee regrets the lack of progress in adopting a comprehensive law on violence against children. With reference to its general comment No. 13 (2011) on the right of the child to freedom from all forms of violence, the Committee recommends that the State party:**

(a) Expedite the adoption of legislation guaranteeing comprehensive protection of children against violence and ensure its application at all levels;

(b) Undertake a broad assessment of the extent, risk factors and nature of violence against, and abuse or neglect of children, with a view to developing a comprehensive national strategy to prevent and address those phenomena;

(c) Adopt a national framework for coordination between administrations and institutions to adequately respond to situations of violence against, and abuse or neglect of, children, paying particular attention to their gender dimensions;

(d) Increase the provision of programmes aimed at raising awareness among and educating children about their right to be free from violence and about where to seek assistance in cases of violence, abuse or neglect and consult with children when designing and implementing such programmes to ensure that they are both relevant and useful;

(e) Ensure the allocation of adequate human, technical and financial resources to address the root causes of violence against and abuse and neglect of children;

(f) Encourage community-based programmes aimed at preventing and tackling domestic violence, child abuse and neglect.

Sexual exploitation and abuse

23. **The Committee notes the adoption of legal and policy measures to fight against the sexual exploitation of children and the creation of a unified child abuse register and a central sex offenders register. The Committee draws the attention of the State party to target 16.2 of the Sustainable Development Goals on ending abuse, exploitation, trafficking and all forms of violence against and torture of children, and recommends that the State party:**

(a) Consider adopting additional extensions to the statute of limitations in child sexual abuse cases;

(b) Ensure accessible, confidential, child-friendly and effective channels for the reporting of sexual exploitation and abuse, including incest and abuse in school settings;

(c) Increase skills among professionals and strengthen intersectoral coordination to address cases of child abuse and expedite the development of care protocols;

(d) Proactively investigate cases of sexual exploitation and abuse of children, prosecute perpetrators and ensure that they are appropriately sanctioned, if convicted;

(e) Ensure the implementation of planned measures to provide protection in all cases to child victims during court proceedings, including measures to ensure that child victims do not have to face perpetrators and the use of video questioning and audio and video recording;

(f) **Expedite the court proceedings in sexual abuse cases involving child victims, in order to reduce the period of time for which they must wait before testifying;**

(g) **Review the practice of automatically placing sex offenders who are children themselves on the central sex offenders register and ensure the periodic review of their inclusion therein, with a view to encouraging their treatment and rehabilitation.**

Harmful practices

24. **The Committee recommends that the State party prohibit the performance of unnecessary medical or surgical treatment on intersex children, where those procedures entail a risk of harm and can be safely deferred until the child can actively participate in the decision-making process. It also recommends that the State party ensure that intersex children and their families receive adequate counselling and support.**

Bullfighting

25. **In order to prevent the harmful effects of bullfighting on children, the Committee recommends that the State party prohibit the participation of children under 18 years of age as bullfighters and as spectators in bullfighting events.**

F. Family environment and alternative care (arts. 5, 9–11, 18 (1) and (2), 20, 21, 25 and 27 (4))

Family environment

26. **Recalling its previous concluding observations (see CRC/C/ESP/CO/3-4, para. 40), the Committee recommends that the State party:**

(a) **Increase the provision of timely and sufficient assistance and counselling to parents and other caregivers at risk of neglecting or ill-treating their children;**

(b) **Strengthen the system of family benefits and child allowances to support parents and children in general, with additional support, in particular, for families at risk due to poverty, single-parent families, families with numerous children and/or unemployed parents.**

Children deprived of a family environment

27. The Committee is seriously concerned about:

(a) The high number of children in residential care and the fact that residential care is, in practice, used as the primary alternative as an initial measure;

(b) Insufficient resources resulting in delays in the assumption of State guardianship and inadequate facilities and overcrowding in some residential care centres;

(c) Instances of ill-treatment and degrading treatment of children in residential care centres, including allegations of solitary confinement, medical misdiagnosis and incorrect medical treatment, as well as a lack of child-centred monitoring and reporting systems and complaints mechanisms for children;

(d) Inadequate support for children in their transition from childhood to adulthood.

28. **Recalling the Guidelines for the Alternative Care of Children and the Committee's previous recommendations (see CRC/C/ESP/CO/3-4, para. 42) the Committee recommends that the State party increase the resources allocated to efforts to prevent the separation of children from their families and ensure the sufficient provision of support and assistance, including subsidies and professional support,**

particularly to families with children in disadvantaged or marginalized situations. It also recommends that the State party:

(a) Expedite the process of deinstitutionalization, ensuring that residential care is used as a measure of last resort, and ensure that all remaining residential care centres meet at least the minimum quality standards;

(b) Ensure that decisions on child removal are always made or reviewed by a judge and only after thorough assessment of the best interests of the child in each particular case;

(c) Allocate adequate human, technical and financial resources to the promotion of family foster care and to improving and developing the skills of foster parents and families and professional specialized carers;

(d) Ensure humane and dignified conditions in remaining centres for children with behavioural or social difficulties and thoroughly investigate any allegations of abuse or ill-treatment committed in these centres;

(e) Constantly supervise and monitor the quality of alternative care provided to children, including by providing accessible channels for reporting, monitoring and remedying ill-treatment of children and ensure accessible complaints mechanisms for children in State residential and foster care;

(f) Develop and implement support programmes to help children in care to transition to adulthood.

Adoption

29. **The Committee welcomes the adoption of amendments to the law on intercountry adoption, aimed at ensuring the same processes, guarantees and safeguards throughout the State party, and the forthcoming creation of a single national adoption registry at the beginning of 2018. The Committee recommends that the State party:**

(a) Expedite the revision of the regulations on intercountry adoption, ensuring that they are in line with the Convention;

(b) Allocate sufficient resources to the State general administration body in charge of intercountry adoption matters;

(c) Increase coordination and collaboration among the entities responsible for adoption.

Children in prison with their mothers

30. **The Committee recommends that the State party seek alternative measures to detention for pregnant women and mothers with small children wherever possible and that the best interests of the child be considered carefully and independently at the time of sentencing.**

G. Disability, basic health and welfare (arts. 6, 18 (3), 23, 24, 26, 27 (1)–(3) and 33)

Children with disabilities

31. **With reference to its general comment No. 9 (2006) on the rights of children with disabilities, the Committee urges the State party to fully implement a human rights-based approach to disability that ensures equal access to good-quality inclusive education in mainstream schools for children with disabilities, including the functioning of appropriate channels through which appeals against education placement decisions may be lodged. It recommends that the State party expedite the Second National Accessibility Plan and ensure its implementation with regard to the inclusion of children with disabilities. It also recommends that the State party:**

(a) **Organize the collection of data on children with disabilities, increase resources in mainstream schools to match the diversity of students and develop an efficient system for identifying the individual support needs of children;**

(b) **Take comprehensive measures to address existing differences between autonomous communities regarding the transformation to an inclusive education system, ensuring that inclusive education is given priority over the placement of children in specialized institutions and classes;**

(c) **Provide high-quality ongoing training for all education personnel in mainstream classes and ensure the provision of sufficient individual support for and all due attention to children with learning difficulties;**

(d) **Ensure that children with disabilities have access to health care, including early detection and intervention programmes;**

(e) **Undertake awareness-raising campaigns aimed at government officials, the public and families to combat the stigmatization of and prejudice against children with disabilities and promote a positive image of such children as rights holders.**

Health and health services

32. **With reference to its general comment No. 15 (2013) on the right of the child to the enjoyment of the highest attainable standard of health, the Committee recommends that the State party increase the number of paediatricians and ensure that general practitioners providing health services to children acquire additional specialized skills and expertise relating to and receive further training on child and adolescent care.**

Mental health

33. **While noting with appreciation that psychologists are available in all public schools, the Committee recalls its previous recommendation (see CRC/C/ESP/CO/3-4, para. 49) and recommends that the State party:**

(a) **Promote the development of a mental health policy for children and ensure that qualified staff, including child psychiatrists, are available throughout its territory;**

(b) **Reduce excessively long response times for access to mental health services for children and increase the availability of services, including therapeutic care and support for families following the discharge of children from clinics;**

(c) **Establish a protocol for the diagnosis and treatment of attention deficit hyperactivity disorder and other behavioural disorders in children, encourage the development of medication-free alternatives and ensure that diagnoses are thoroughly examined, that psychotropic and psychostimulant drugs are prescribed as a measure of last resort and only after an individualized assessment of the best interests of the child has been carried out and that sufficient information is provided to children and their parents about the medical treatment, its possible side effects and non-medical alternatives.**

Adolescent health

34. **The Committee notes that the evaluation of the national strategy on drugs for the period 2009–2016 reveals a slight increase in the age at which children start abusing substances. With reference to its general comment No. 4 (2003) on adolescent health and development in the context of the Convention and target 3.5 of the Sustainable Development Goals on strengthening the prevention and treatment of substance abuse, including narcotic drug abuse and harmful use of alcohol, the Committee recommends that the State party strengthen its measures to prevent and address the incidence of substance abuse, particularly tobacco, cannabis and alcohol, by children and adolescents.**

Nutrition

35. **The Committee recommends that the State party:**

(a) **Strengthen programmes to address the rise in child obesity;**

(b) **Ensure that all the provisions of the International Code of Marketing of Breast-milk Substitutes are integrated into national laws to appropriately regulate the promotion of breast-milk substitutes and strengthen the promotion of exclusive breastfeeding for at least six months;**

(c) **Strengthen strategies that enable households at risk of poverty to have access to sufficient and healthy food.**

Environmental health

36. **The Committee recommends that the State party carry out an assessment of the impact of air pollution from coal-fired power plants on children's health and on the climate as a basis for designing a well-resourced strategy to remedy the situation, and strictly regulate maximum air-pollutant emissions, including those by produced private businesses.**

Standard of living

37. The Committee is seriously concerned that average national indicators on social exclusion, poverty and inequality have increased, while investment in social protection measures related to children continues to be well below the European average. It is further concerned that the financial crisis had a negative impact on the social protection systems in the State party, resulting in insufficient coverage and delays in the processing of benefit allowances for children and their families, particularly at the autonomous community level. It is also concerned about cases of children living in slums and in housing of substandard quality in some autonomous communities, particularly Roma children and children with migrant backgrounds, and cases of evictions of families with children.

38. **The Committee draws attention to target 1.3 of the Sustainable Development Goals on implementing nationally appropriate social protection systems and measures for all and urges the State party to strengthen comprehensive social protection policies for children and their families, with a specific focus on children and families at risk and in most need of support. It further recommends that the State party:**

(a) **Simplify procedures for families with children in vulnerable situations to have quick and adequate access to social protection in diverse forms, such as financial aid, services and counselling, in addition to existing tax advantages;**

(b) **Increase the number of personnel handling applications for social benefits and take all necessary measures to support those families with children living below the poverty line;**

(c) **Increase public investment to match the actual volume of applications for social benefits and, to the extent possible, increase the total amount of financing;**

(d) **Improve the provision of housing and basic services and strengthen support for families facing eviction as a result of financial difficulties and, recalling the Views of the Committee on Economic, Social and Cultural Rights, ensure that particular attention is paid to evictions that involve children (see *Ben Djazia and Bellili v. Spain* (E/C.12/61/D/5/2015));**

(e) **Increase efforts and resources to implement the National Strategy for the Social Inclusion of the Gypsy Population (2012–2020).**

H. Education, leisure and cultural activities (arts. 28–31)

Education, including vocational training and guidance

39. The Committee is seriously concerned that, in practice, the constitutional right to education is implemented unevenly in the State party, with unequal investment in education by autonomous communities and a slight decrease in overall investment in education. It is also concerned at the high rate of individuals leaving education and training early and at the fact that almost one fifth of all secondary school students, particularly immigrant children, Roma girls and children living in poverty; do not obtain the compulsory education diploma. The Committee is also concerned about:

(a) The indirect costs of mandatory education, including textbooks, transport and school meals, which can make it difficult for children in marginalized situations to access educations;

(b) Disparities between autonomous communities regarding access to school places and support, particularly for children with disabilities and at the preschool level;

(c) The weaker education outcomes of children of Roma origin and those with migrant backgrounds, as compared to the outcomes of the general student population, and the concentration of those children in certain schools;

(d) The incidence of bullying and harassment, including on the basis of disability, sexual orientation and gender identity, in schools and on social media, and the inadequate implementation of policies and strategies to address those phenomena;

(e) The persistence of gender stereotypes in the education system, including in school curricula and textbooks;

(f) The fact that early childhood care and education do not reach the poorest families and families of children with disabilities.

40. **With reference to its general comment No. 1 (2001) on the aims of education and taking note of target 4.1 of the Sustainable Development Goals on ensuring that all girls and boys complete free, equitable and quality primary and secondary education leading to relevant and effective learning outcomes, the Committee urges the State party to foster a national dialogue on the basic and structural characteristics of the education system and to protect resources dedicated to education and training for children. The Committee also recommends that the State party provide reinforcement, orientation and support programmes to prevent early school leaving and:**

(a) **Guarantee access to high-quality mandatory education for all children, including coverage of related indirect costs;**

(b) **Strengthen measures to increase access to school places and support across all autonomous communities for all children, particularly children with disabilities;**

(c) **Actively develop measures to ensure that children of Roma origin and children with migrant backgrounds have adequate support to remain in school and ensure equal access to high-quality education;**

(d) **Establish a strategy to combat bullying and harassment, including cyberbullying, that encompasses prevention, early detection mechanisms, the empowerment of children and professionals, intervention protocols and harmonized guidelines for the collection of case-related data;**

(e) **Eliminate gender stereotypes relating to education, including in textbooks and curricula;**

(f) **Encourage the allocation of sufficient human, technical and financial resources to ensure that all children, including the poorest and those with disabilities, receive early childhood care and education.**

Rest, leisure, recreation and cultural and artistic activities

41. **With reference to its general comment No. 17 (2013) on the right of the child to rest, leisure, play, recreational activities, cultural life and the arts, the Committee recommends that the State party strengthen its efforts to guarantee the right of children, including those with disabilities and children in marginalized situations, to rest and leisure and to engage in play and recreational activities that are safe, accessible, inclusive, reachable by public transport, smoke-free and age-appropriate.**

I. Special protection measures (arts. 22, 30, 32, 33, 35, 36, 37 (b)–(d) and 38–40)

Asylum-seeking and refugee children

42. The Committee is concerned about the lack of information regarding the implementation of the Committee's previous recommendation to afford adequate protection to all children, irrespective of their nationality (see CRC/C/ESP/CO/3-4, para. 58). The Committee is also seriously concerned at:

(a) The absence of an updated implementing decree for the asylum law and the fact that children are not recognized as applicants for international protection in their own right;

(b) Substandard reception and accommodation conditions and neglect in overcrowded temporary holding centres for foreigners, denial of freedom of movement to travel onward in the State party and delays in transfers from the autonomous cities of Ceuta and Melilla to mainland Spain for asylum-seeking children and their families;

(c) The absence of accessible complaints mechanisms for children in cases of allegations of violations of their rights in protection centres;

(d) Children travelling with family members other than their parents being separated from those family members at the border, particularly in the autonomous city of Melilla.

43. **Taking into account its general comments No. 22 (2017) on the general principles regarding the human rights of children in the context of international migration and No. 23 (2017) on State obligations regarding the human rights of children in the context of international migration in countries of origin, transit, destination and return, both issued jointly with the Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families, the Committee urges the State party to facilitate access to fair and efficient asylum procedures for children in need of international protection, regardless of their country of origin, including by providing information to children on their right to international protection. In particular, the Committee urges the State party to:**

(a) **Expedite the adoption of an updated implementing decree for the asylum law and include in the decree the recognition of children as applicants for international protection in their own right;**

(b) **Train all professionals involved in international protection and migration on the Convention, the rights of the child and the duty to protect children seeking international protection;**

(c) **Establish adequate reception facilities for children, principally in the autonomous cities of Ceuta and Melilla and for those children arriving in Andalusia by sea, with specialized legal assistance, adequately trained interpreters and child-friendly services and expedite the processing and transfer of asylum-seeking children and their families;**

(d) **Develop effective mechanisms to receive and address complaints from children in protection centres, take measures to prevent cases of ill-treatment and effectively investigate any reported cases;**

(c) **Build the capacity of border guards and relevant professionals to adequately identify children and their specific protection needs, taking into account their age, gender and diversity, and ensure a swift transfer to adequate reception centres;**

(f) **Establish differentiated and prompt procedures and resources for children, especially to prevent separation of children from their families, and expedite status-determination procedures in urgent cases of family tracing and reunification, especially in the autonomous city of Melilla;**

(g) **Consider acceding to the Convention on the Reduction of Statelessness.**

Unaccompanied children

44. The Committee is seriously concerned that, under Spanish legislation, the Attorney General is empowered to undertake age-determination procedures for foreign unaccompanied children. While noting the information provided to the Committee by the State party delegation, the Committee is nevertheless concerned about the use of intrusive age-assessment methods, even in cases where the identification documents appear to be authentic, particularly in the autonomous cities of Ceuta and Melilla, and despite several Supreme Court decisions on this practice. The Committee is also concerned about:

(a) Unaccompanied children who are excluded from the child-protection system as a result of age assessment and who may consequently fall victim to trafficking;

(b) The inadequate and uneven protection standards for unaccompanied children across autonomous communities, including cases of lack or delay of legal assistance, or of provision of inadequate information to children;

(c) The high levels of violence, the inadequate nature of the treatment and protection provided by professionals in reception centres for children, including allegations of prostitution of girls and insufficient access to regular education and leisure activities, and the lack of a complaints mechanism;

(d) The practice of the automatic pushback of children seeking international protection in the autonomous cities of Ceuta and Melilla, without the necessary guarantees;

(e) Insufficient information-sharing and coordination concerning the referral of unaccompanied children by police to child-protection agencies;

(f) The situation of about 100 foreign unaccompanied children in street situations in the vicinity of the harbour of the autonomous city of Melilla.

45. **Taking into account its general comment No. 6 (2005) on treatment of unaccompanied and separated children outside their country of origin and its general comments No. 22 (2017) and No. 23 (2017), and recalling its previous recommendations (see CRC/C/ESP/CO/3-4, para. 60), the Committee urges the State party to review Act No. 26/2015 and the framework protocol for unaccompanied foreign minors to ensure that they are in line with the provisions of the Convention. It also urges the State party to:**

(a) **Ensure effective legal protection for unaccompanied children across all its territory and ensure that the principle of non-refoulement is applied and that the best interests of the child are taken into account as a primary consideration, and provide additional training and guidance to relevant professionals on assessing the best interests of the child;**

(b) **Develop a uniform protocol on age-determination methods, for all territory of the State party, that is multidisciplinary and respectful of human rights and used only in cases of serious doubt about the claimed age and in consideration of documentary or other forms of evidence available;**

(c) **Establish child-friendly reception centres for children, with accessible and effective complaints mechanisms, and thoroughly investigate any cases of violations of children's rights;**

(d) End the practice of the automatic pushback of some children, ensuring that all procedures and standards are in accordance with their status as children and with national and international legislation;

(e) Improve information-gathering and -sharing to ensure referral to child protection services of unaccompanied children, child victims of trafficking in persons and child applicants for international protection;

(f) Strengthen cooperation with the Office of the United Nations High Commissioner for Refugees for the implementation of these recommendations.

Sale, trafficking and abduction

46. **Welcoming that the children's observatory recently approved a protocol for victims of trafficking in persons, the Committee recommends that the State party:**

(a) Implement the national framework protocol for identifying and providing care and protection for child victims of trafficking;

(b) Take effective measures to safeguard children's rights in its territory, especially those of unaccompanied children, to ensure that they do not fall prey to traffickers and expedite status-determination procedures for children who may be victims of trafficking for the purposes of exploitation;

(c) Strengthen the capacity of, inter alia, police officers, border guards, consular service officials, labour inspectors and social workers to identify child victims of trafficking;

(d) Promote measures for increased collaboration among autonomous communities and resources to provide child victims with free legal aid and the support of child psychologists and social workers in shelters that cater for the needs of child victims.

Administration of juvenile justice

47. **The Committee notes with appreciation the use of alternative measures and the reduction of severe sentences in the State party. With reference to its general comment No. 10 (2007) on children's rights in juvenile justice, the Committee recommends that the State party:**

(a) Adopt the legal amendments necessary to end the use of incommunicado detention of all children;

(b) Increase the number of specialized judges for children and ensure the availability of specialized juvenile court facilities and child-friendly procedures and, in this regard, review the 2017 agreement by the General Council of the Judiciary to transfer specialized children's judges to general courts;

(c) Strengthen capacity-building and awareness-raising of judges on the Convention and its Optional Protocols and ensure that adequate human, technical and financial resources are allocated in that regard;

(d) Ensure the provision of qualified and independent legal aid to children in conflict with the law at an early stage during and throughout the legal proceedings.

Follow-up to the Committee's previous concluding observations and recommendations on the Optional Protocol on the sale of children, child prostitution and child pornography

48. **While noting with appreciation the State party's efforts to implement the Committee's 2007 recommendations concerning the State party's initial report under the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography (CRC/C/OPSC/ESP/CO/1), the Committee recommends that the State party:**

(a) **Strengthen coordination at the central, autonomous community and local levels and establish monitoring mechanisms for the periodic evaluation of the implementation of the recommendations under the Optional Protocol;**

(b) **Increase the resources allocated to awareness-raising campaigns and develop training materials and courses for relevant professionals, including police officers and labour inspectors;**

(c) **Increase efforts to combat the sexual exploitation of children in the context of travel and tourism;**

(d) **Continue aligning its Penal Code with articles 2 and 3 of the Optional Protocol.**

Follow-up to the Committee's previous concluding observations and recommendations concerning the Optional Protocol on the involvement of children in armed conflict

49. **While noting with appreciation the State party's efforts to implement the Committee's 2007 recommendations concerning the State party's initial report under the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict (CRC/C/OPAC/ESP/CO/1), including the reform of the Penal Code, the Committee reiterates its recommendation that the State party increase the number of professionals providing adequate multidisciplinary assistance for the physical and psychological recovery and social reintegration of asylum-seeking and refugee children in the State party who may have been involved in hostilities abroad.**

J. Ratification of international human rights instruments

50. **The Committee recommends that the State party, in order to further strengthen the fulfilment of children's rights, consider ratifying the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families.**

K. Cooperation with regional bodies

51. **The Committee recommends that the State party cooperate with the Council of Europe on the implementation of the Convention and other human rights instruments, both in the State party and in other Council of Europe member States.**

IV. Implementation and reporting

A. Follow-up and dissemination

52. **The Committee recommends that the State party take all appropriate measures to ensure that the recommendations contained in the present concluding observations are fully implemented. The Committee also recommends that the combined fifth and sixth periodic reports, the written replies to the list of issues and the present concluding observations be made widely available in the languages of the country.**

B. Next report

53. **The Committee invites the State party to submit its seventh periodic report by 4 January 2023 and to include therein information on the follow-up to the present concluding observations. The report should be in compliance with the Committee's harmonized treaty-specific reporting guidelines adopted on 31 January 2014 (CRC/C/58/Rev.3) and should not exceed 21,200 words (see General Assembly**

resolution 68/268, para. 16). In the event that a report exceeding the established word limit is submitted, the State party will be asked to shorten the report in accordance with the above-mentioned resolution. If the State party is not in a position to review and resubmit the report, translation thereof for the purposes of consideration by the treaty body cannot be guaranteed.

54. **The Committee also invites the State party to submit an updated core document, not exceeding 42,400 words, in accordance with the requirements for the common core document contained in the harmonized guidelines on reporting under the international human rights treaties, including guidelines on a common core document and treaty-specific documents (see HRI/GEN/2/Rev.6, chap. I) and paragraph 16 of General Assembly resolution 68/268.**